THE HON'BLE SRI JUSTICE K.C.BHANU

–

WRIT PETITION NO.20624 OF 2005

DT.26-07-2005

Between:

D.Shankar Rao, s/o Rajaiah,

Aged about 45 years, Occ: Senior Assistant,

Social Welfare Department, Hyderabad,

R/o H.No.131, Kamalapuri Colony,

Jubilee Hills, Hyderabad.

… Petitioner

A n d

The Registrar (Vigilance),

High Court of A.P.,

Hyderabad and another

… Respondents

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WRIT PETITION NO.20624 OF 2005

ORDER:

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The writ petition is filed seeking a mandamus to declare the action of the first respondent, transferring the cases in Cr.Nos.480, 481 and 500 of 2002 from the

Court of XXI Metropolitan Magistrate, Hyderabad to the Court of Special Judge under Prevention of Corruption Act for Speedy Trial of Cases of Embezzlement of Scholarship Amounts in Social Welfare Department at Hyderabad, as illegal and arbitrary.

A detailed counter-affidavit has been filed by the first respondent stating that the High Court, by exercising powers under Section 407 of Cr.PC, has ordered for transfer of the cases and hence there is no jurisdictional error.

It is not disputed before the Court that the Special Court relating to Social Welfare Scam is established by the Government under G.O.Ms.No.24 Law (LA & J Home Cts. C) Department, dated 17-02-2003 at Hyderabad for the speedy trial and disposal of cases on fraudulent drawals and misappropriation of scholarship amounts in Social Welfare, Tribal Welfare and Backward Classes Department.

From a perusal of the record, it seems that the XXI Metropolitan Magistrate addressed the letter dated 25-07-2003 to the Metropolitan Sessions Judge stating that in Cr.Nos.480, 481 and 500 of 2002, the accused is same as that of in Cr.Nos. 134, 496 and 585 of 2002, relating to Social Welfare Scam. Based on the said letter, the Metropolitan Sessions Judge, Hyderabad addressed a letter to the High Court informing as above and for transfer of the cases. This Court, while exercising the powers under Section 407 of Cr.PC, ordered for transfer. There is no jurisdictional error, as such, for this Court to transfer the cases, but at the same time the offences relating to Cr.Nos. 480, 481 and 500 of 2002 are exclusively triable by the Court of Magistrate, where the punishment is three years, and a person has the right of appeal to the District Court and thereafter revision to this Court. If the cases are tried by the Special Court, which are headed by the District Judge, the petitioner will lose his right of appeal. Since Cr.Nos.480, 481 and 500 of 2002 do not fall under any one of the cases relating to the Social Welfare Scam, the proceedings issued by this Court has to be withdrawn.

Accordingly, Cr.Nos.480, 481 and 500 of 2002, which are pending on the file of the Court of Special Judge under Prevention of Corruption Act for Speedy Trial of Cases of Embezzlement of Scholarship Amounts in Social Welfare Department at Hyderabad, are hereby withdrawn and are transferred to the Court of XXI Metropolitan Magistrate, Hyderabad. No order as to costs.

26-09-2005.

Lrkm.